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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|--------------------|
| 10/031,362 | 04/29/2002 | Luciano Salda | 010751-057 | 2581 |
| 21839 | 7590 | 05/19/2004 | EXAMINER | |
| BURNS DOANE SWECKER & MATHIS L L P POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404 | | | | SHAPIRO, JEFFERY A |
| ART UNIT | | PAPER NUMBER | | |
| | | 3653 | | |

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------|----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/031,362 | SALDA, LUCIANO |
| | Examiner | Art Unit |
| | Jeffrey A. Shapiro | 3653 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 16 May 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-19 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Willis (US 5,423,492). Willis discloses Applicant's claimed apparatus as follows.

As described in Claim 1;

- a. an insertion opening (40) for receiving the container and at least one distributing means (144) for transporting the container from said insertion opening to a selectable processing means of said return device;
- b. said distributing means comprising at least one intermediate bottom (292) and a receiving means (291 and 294a) *both rotatably supported about a shaft, (293 and 295);*
- c. *said receiving means is rotated to transport the container away from said insertion opening (see figure 8);*
- d. said receiving means comprises a bottom opening (215) relative to which a sorting opening of said intermediate bottom can be positioned for passing said container therethrough to the selected processing means;
- e. *said intermediate bottom is rotated to position a sorting opening of the intermediate bottom relative to a bottom opening of said receiving*

means for passing said container through the sorting opening and the bottom opening to a selected processing means; (see figure 4)

As described in Claim 2;

f. said return device has arranged therein a support plate (200) which comprises a number of passage holes (215), each *passage hole communicating with* at least one processing means, and relative to which said intermediate bottom is movable for arranging said sorting opening between the bottom opening and a selected passage hole;

As described in Claim 3;

g. said receiving means comprises a shell (20, 22, 24, 26 and 30) *including an open side which can be moved to provide* said insertion opening (40);

As described in Claim 4;

h. said intermediate bottom (292) is circular and rotatable about its center axis (293);

As described in Claim 5;

i. said sorting opening is designed as a radially outwardly open peripheral recess (see figures 5 and 6, noting that circular plate (292) fits into the groove formed in (200));

As described in Claim 6;

j. a shell (144) is rotatably supported in coaxial fashion relative to said center axis;

As described in Claim 7;

- k. a bearing shaft extends substantially in a vertical direction from said support plate and has rotatably supported thereon a shell and/or intermediate bottom (see figure 6);

As described in Claim 8;

- l. a bearing shaft (324), said shaft being a hollow shaft (note that the fact that it is hollow does not appear to be critical, and Applicant's specification appears to not mention particular reasons for using such a shaft);

As described in Claim 9;

- m. said passage holes are arranged along a circle in concentric fashion relative to said intermediate bottom (see figure 5);

As described in Claim 10;

- n. passage holes (215);
- o. a guide extends (300,302) from each passage hole to a corresponding processing means;

As described in Claim 11;

- p. at least one identifying means (130) is assigned to said insertion opening and/or receiving means and/or said support plate and/or said intermediate bottom for identifying at least one characteristic feature of said container;

As described in Claim 12;

q. the characteristic feature of said container is the geometrical shape thereof; (see col. 6, lines 53-63)

As described in Claim 13;

r. a storage and/or evaluation means (132) is assigned to said identifying means, in particular for storing different geometrical shapes of said container and for comparing a container to be recognized with a stored shape (see col. 7, lines 64-68 and col. 7, lines 1-21);

As described in Claim 14;

s. said identifying means is designed as a scanning means and is movable relative to the container to be scanned (see col. 6, lines 53-63);

As described in Claim 15;

t. said intermediate bottom comprises a rotational sleeve (232) which is rotatably attached to the bearing shaft of said support plate;

As described in Claim 16;

u. said shell is held by means of a radial arm (294) by a bearing sleeve which is rotatably attached to said rotational sleeve;

As described in Claim 17;

v. said rotational sleeve of said intermediate bottom is rotatably supported in the hollow shaft of said support plate and a bearing shaft of said receiving means is rotatably supported in said rotational sleeve (see previous discussion above);

As described in Claim 18;

w. said shell of said receiving means and said intermediate bottom are rotatable according to signals of said identifying means (see abstract);

As described in Claim 19;

x. said intermediate bottom is sector-like (see figure 6, for example);

Response to Arguments

3. Applicant's arguments with respect to Claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ajo '904 is cited as a sorting apparatus having an intermediate bottom.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

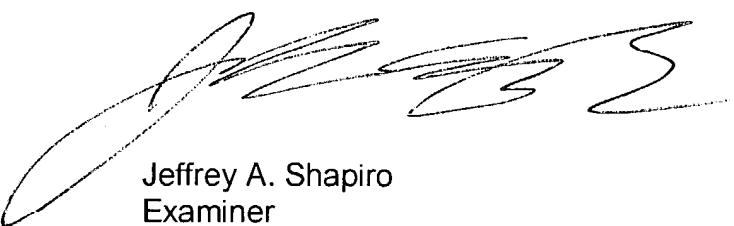
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

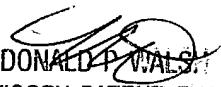
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey A. Shapiro
Examiner
Art Unit 3653

May 16, 2004



DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600